

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

E. NOEL KING,

Plaintiff,

No. 08-CV-14864-DT

vs.

Hon. Gerald E. Rosen

IB PROPERTY HOLDINGS
ACQUISTION, et al.,

Defendants.

ORDER ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION AND
DISMISSING PLAINTIFF'S COMPLAINT, IN ITS ENTIRETY

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on June 26, 2009

PRESENT: Honorable Gerald E. Rosen
Chief Judge, United States District Court

This matter having come before the Court on the June 4, 2009 Report and Recommendation of United States Magistrate Judge Michael Hluchaniuk recommending that the Court (1) grant Defendants' Motions to Dismiss Plaintiff's Complaint, in part (2) deny Plaintiff's Motion for Preliminary Injunction, and (3) dismiss Plaintiff's Complaint, in its entirety, with prejudice, as to Plaintiff E. Noel King, but without prejudice, as to the real party-in-interest, Plaintiff's father James King (who is not a party to this action);¹ and

¹ The Magistrate Judge recommends dismissal on two alternate bases: (1) a dismissal of all claims in Plaintiff's Complaint, based on Plaintiff's lack of standing to assert any claims on behalf of his father, James King, the real party-in-interest, which

Plaintiff having timely filed Objections to the R&R, and Defendant Herold & Associates having responded to Plaintiff's Objections; and the Court having reviewed the detailed Report and Recommendation, Plaintiff's Objections, Defendant Herold's Response, and the Court's entire file of this matter, and having determined that for reasons stated by the Magistrate Judge, Plaintiff's Complaint should be dismissed, in its entirety; and the Court being otherwise fully advised in the premises,

NOW, THEREFORE,

IT IS HEREBY ORDERED that the Magistrate Judge's June 4, 2009 Report and Recommendation is hereby adopted by the Court.

IT IS FURTHER ORDERED that, for the reasons stated in the Report and Recommendation, Defendants' Motions to Dismiss [**Dkt. Nos. 4 and 8**] are GRANTED, in part.

IT IS FURTHER ORDERED that Plaintiff's Motion for Preliminary Injunction [**Dkt. No. 2**] is DENIED.

IT IS FURTHER ORDERED that Defendant Herold & Associates Motion for Sanctions [**Dkt. No. 9**] is denied to the extent that Defendant requests an order directing Plaintiff to pay Herold's costs and fees.

IT IS FURTHER ORDERED that Plaintiff's Complaint be, and, hereby is,

would be without prejudice to the real party-in-interest, James King, except as to the Fourteenth Amendment due process claim, which the Magistrate Judge recommends be dismissed with prejudice and (2) a dismissal of Plaintiff's Complaint in its entirety, with prejudice, except as to the real part-in-interest, based on Plaintiff's violation of Fed. R. Civ. P. 11.

DISMISSED, in its entirety, with prejudice, as to Plaintiff E. Noel King, but without prejudice, as to the real-party-in-interest, James King.

Let Judgment be entered accordingly.

s/Gerald E. Rosen
Chief Judge, United States District Court

Dated: June 26, 2009

CERTIFICATE OF SERVICE

I hereby certify that on June 26, 2009, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: Steven A. Matta; Michael J. Sullivan; Monika L. Sullivan, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants:

E. Noel King, 4626 Stoneleigh Road, Bloomfield Hills, MI 48302.

s/Ruth A. Brissaud
Ruth A. Brissaud, Case Manager
(313) 234-5137